IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 4TH JANUARY 2007 / 14TH PAUSHA 1928

WP(C).No. 34649 of 2006(Y)

PETITIONER:

M/S. UKKEN STORES,
HIGH ROAD, THRISSUR 680 001, REPRESENTED BY ITS PROPRIETOR, VARGHESE UKKEN.

BY ADV. SRI.SIBY MATHEW
SRI.A.A.MOHAMMED NAZIR

RESPONDENTS:

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1. THE STATE BANK OF INDIA, TRICHUR BRANCH, DHARMODHAYAM BUILDING, ROUND EAST, THRISSUR 680 001, REPRESENTED BY ITS BRANCH MANAGER.

2. THE AUTHORISED OFFICER, STATE BANK OF INDIA, DHARMODHAYAM BUILDINGS, ROUNG EAST, THRISSUR 680 001.

BY ADV. SRI.K.K.CHANDRAN PILLAI
SRI.A.S.SAJUSH PAUL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C.NO. 34649 OF 2006

Dated this the 4th day of January, 2007

JUDGMENT

Writ Petition is apparently not maintainable because for the very same matter, petitioner approached this Court earlier and this Court vide Ext.P3 judgment granted time to the petitioner on condition of payment of Rs. 35 lakhs to the Bank within the time granted and directed the Bank to grant incentives. Even though time for compliance with the condition was extended, petitioner did not comply with the same. It is specifically made clear in the judgment that if the petitioner does not make payment, Bank is free to proceed for recovery without fresh notice. The present Writ Petition is filed for direction to the Bank to permit the petitioner to sell one item of property on condition that petitioner will remit the entire sale proceeds to the Bank. Bank has filed counter affidavit and standing counsel for the Bank contended that if petitioner is allowed to sell one item of property which, according to him, is relatively more valuable item of property, Bank's claim will be defeated. In the circumstances,

petitioner's request cannot be allowed. If the petitioner offers alternate valid security for the balance loan amount to the satisfaction of the Bank, I am sure the Bank will grant approval for sale of mortgaged property. However, Bank is free to proceed for recovery, if petitioner continues the default.

W.P. is closed.

(C.N.RAMACHANDRAN NAIR)
Judge